EXHIBIT 16

1   UNITED STATES DISTRICT COURT

2   NORTHERN DISTRICT OF CALIFORNIA

3   SAN JOSE DIVISION

4

    CISCO SYSTEMS, INC.   Case No.: 5:14-cv-05344-BLF(PSG)

5

6   Plaintiff,

      v.

7

    ARISTA NETWORKS, INC.

8

            Defendants.

9 _____

10

11

12

13   * HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY *

14

15   VIDEOTAPED DEPOSITION OF PHILLIP REMAKER

16   30(b)(6) FOR CISCO SYSTEMS, INC.

17   Palo Alto, California

18   Thursday, March 31, 2016

19   Volume 1

20

21 Reported by:

22 LESLIE JOHNSON

23 RPR, CSR No. 11451

24 Job No.: 2281749

25 PAGES 1 - 216

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 1      UNITED STATES DISTRICT COURT
 2   FOR THE NORTHERN DISTRICT OF CALIFORNIA
 3        SAN JOSE DIVISION
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     CISCO SYSTEMS, INC     Case No : 5:14-cv-05344-BLF(PSG)
 5
          Plaintiff,
 6
 7          v
     ARISTA NETWORKS, INC
 8
          Defendants
 9   _____
10
11
12
13
14   * HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY *
15
16
17     VIDEOTAPED DEPOSITION OF PHILLIP REMAKER, Volume 1,
18   taken on behalf of Defendant, at 601 California Avenue,
19   Palo Alto, California, beginning at 9:30 a m  and ending
20   at 4:14 p m , on Thursday. March 31, 2016, before
21   LESLIE JOHNSON, Certified Shorthand Reporter No  11451
22
23
24
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 1  APPEARANCES:
 2
 3  FOR PLAINTIFF CISCO SYSTEMS, INC.:
 4     QUINN EMANUEL URQUHART & SULLIVAN LLP
 5     BY: JOHN (JAY) NEUKOM, ESQ.
 6     50 California Street, 22nd Floor
 7     San Francisco, California  94111
 8     (415)875-6600
 9     johnneukom@quinnemanuel.com
10  FOR DEFENDANT ARISTA NETWORKS, INC.:
11     KEKER & VAN NEST LLP
12     BY: RYAN WONG, ESQ.
13     633 Battery Street
14     San Francisco, California  94111
15     (415)391-5400
16     rwong@kvn.com
17  ALSO PRESENT:
18     SEAN GRANT, Videographer
19
20
21
22
23
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25
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2 (Pages 2 - 5)

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1   plaintiff.
2   THE VIDEOGRAPHER: Thank you. Will the
3   certified court reporter please swear in the
4   witness.
5
6   PHILLIP REMAKER,
7   having been first duly sworn, was examined
8   and testified as follows:
9
10   EXAMINATION
11 BY MR. WONG:
12   Q. Good morning, Mr. Remaker.
13   A. Good morning.
14   Q. Do you understand that you are testifying
15 under oath?
16   A. I understand.
17   Q. Okay. And I know we took your personal
18 deposition yesterday. Do you understand that the
19 general rules for conducting a deposition are also
20 applicable today?
21   A. Yes.
22   Q. Do you understand that you have been
23 designated by Plaintiff Cisco to provide corporate
24 testimony under Rule 30(b)(6) today?
25   A. Yes.
                                Page 8

1   Palo Alto, California, Thursday, March 31, 2016
2   9:30 a.m.
3
4   THE VIDEOGRAPHER: Good morning. We're on
5   the record. The time is 9:30 a.m. and the date is
6   March 31st, 2016. This begins the videotaped
7   deposition of Cisco Systems, Inc. pursuant to Rule
8   30(b)(6). My name is Sean Grant, here with our
9   court reporter, Leslie Johnson. We're here from
10   Veritext Legal Solutions at the request of counsel
11   for Defendant. This deposition is being held at
12   Wilson Sonsini in Palo Alto, California.
13   The caption of this case is Cisco Systems
14   Inc. versus Arista Networks, Inc., Case No.
15   5:14-cv-05344-BLF.
16   Please note that audio and video recording
17   will take place unless all parties have agreed to go
18   off the record. Microphones are sensitive and may
19   pick up whispers, private conversations or cellular
20   interference.
21   At this time, will counsel please identify
22   themselves and state whom they represent.
23   MR. WONG: Ryan Wong from Keker & Van Nest
24   for Defendant Arista Networks.
25   MR. NEUKOM: John Neukom for the
                                Page 7

1   (Exhibit 429 marked for identification.)
2   MR. WONG: Let's mark this as the first
3   deposition exhibit. I believe we are on 429.
4   THE REPORTER: Correct.
5   BY MR. WONG:
6   Q. The court reporter has marked Exhibit 429,
7   a document that on its face says "Defendant Arista
8   Network, Inc.'s Notice of Rule 30(b)(6) Deposition
9   of Plaintiff Cisco Systems, Inc."
10   Mr. Remaker, do you recognize the document
11   marked as Exhibit 429?
12   MR. NEUKOM: It might help you to turn to
13   page 23.
14   MR. WONG: Thank you, Counsel.
15   MR. NEUKOM: Start with paragraph 78.
16   THE WITNESS: Yes, I recognize this
17   document.
18   BY MR. WONG:
19   Q. Do you understand that you have been
20   designated by Cisco to provide corporate testimony
21   for topic No. 78 that appears on page 23 of
22   Exhibit 429?
23   A. Yes.
24   Q. Do you understand that you've been
25   designated by Cisco to provide corporate testimony
                                Page 9

3 (Pages 6 - 9)

1 correct?
2   A. For a subset of commands, it would seem
3 that was the case.
4   Q. And when we're talking about a subset of
5 commands, which of the Cisco operating systems are
6 you referring to?
7   MR. NEUKOM: Objection. Vague.
8   THE WITNESS: I don't know all of the
9 operating systems that were affected, but the one
10 alias that I know is discontinued was related to IOS
11 XR.
12 BY MR. WONG:
13   Q. Was there a CLI reviewer alias for IOS?
14   A. I don't know.
15   Q. Was there a CLI review alias for NX-OS?
16   A. I don't know.
17   Q. What other flavors of IOS had a CLI
18 reviewer alias?
19   A. I don't know.
20   Q. Do you know for what period of time the
21 IOS XR CLI reviewer alias was being used?
22   A. I don't know exactly.
23   Q. Do you know one way or another whether a
24 CLI reviewer alias existed for Cisco IOS?
25   A. I don't know for certain.

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Page 29

8 (Pages 26 - 29)

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1 and eight.

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11 (Pages 38 - 41)

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12 (Pages 42 - 45)

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1 BY MR. WONG:

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14 (Pages 50 - 53)

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866 299-5127

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Q.   Let me rephrase the question.
Is it bad practice at Cisco to use code

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paragraph that starts with 10.

25 this will be the only acceptable syntax for the ATM

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25 ////

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19 (Pages 70 - 73)

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20   Q. Thank you. You can set that aside.
21   (Exhibit 439 marked for identification.)
22 BY MR. WONG:
23   Q. The court reporter has marked as
24 Exhibit 439 documents -- document bearing control
25 numbers CSI-CLI-02824651 to CSI-CLI-02824719.

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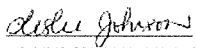22 (Pages 82 - 85)

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1   MR. NEUKOM: Objection. Calls for a legal
2   conclusion. And it is well beyond the scope of
3   topics for which this witness is here today.
4   THE WITNESS: I don't have an opinion
5   about that.
6   BY MR. WONG:
7   Q. Based upon your answer, I would ask you,
8   what was the selection and creation process for
9   whatever it is you would delineate, but if you don't
10 know, then I can't ask you what the selection and
11 creation process was behind the command mode.
12   Well, let me just ask you that.
13   Do you know what the selection or creation
14 process was behind the "user exec" command mode?
15   A. I don't know.
16   Q. Do you know what the selection or creation
17 process was behind the "privileged exec" command
18 mode?
19   A. I do not know.
20   Q. Do you know what the selection or creation
21 process was behind the "global configuration"
22 command mode?
23   A. I do not know.
24   Q. Do you know what the selection or creation
25 process was behind the "interface configuration"

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1   prompts are fixed within any of Cisco's copyrighted
2   works?
3   A. I would presume they are fixed in the
4   source code.
5   Q. And do you know where any of the command
6   modes are fixed in Cisco's copyrighted works?
7   A. I presume in the source code.
8   MR. NEUKOM: Objection. Beyond the scope
9   And I'll take a standing objection for beyond the
10 scope on the where are they fixed line of questions.
11 BY MR. WONG:
12   Q. Subject to questions by your counsel, I
13 have no further questions of you, Mr. Remaker.
14
15   EXAMINATION
16 BY MR. NEUKOM:
17   Q. Mr. Remaker, can you explain for us how
18 much time you spent preparing to testify as a
19 corporate representative today?
20   A. Including the response to the
21 interrogatory or just direct preparation?
22   Q. Just without -- without telling us what
23 you did in detail, why don't you just tell us how
24 much time you spent learning information about the
25 origination of Cisco command line expressions prior

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1   command mode?
2   A. I do not know.
3   Q. Just to cover our bases, do you know the
4   selection or creation process behind the "user exec"
5   command prompt?
6   A. I do not know.
7   Q. Do you know the selection or creation
8   process behind the "privileged exec" command prompt?
9   A. I do not know.
10   Q. Do you know the selection or creation
11 process behind the "global configuration"" command
12 prompt?
13   A. I do not know.
14   Q. And do you know the selection or creation
15 process behind the "interface creation" command
16 prompt?
17   A. I do not know.
18   Q. And you understand that by "you" in those
19 questions, I'm asking you as Cisco's corporate
20 representative, correct?
21   A. Yes.
22   Q. And your answers are the same with that
23 understanding, correct?
24   A. Yes.
25   Q. And do you know where any of these command

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1   to being a corporate representative today?
2   A. I spent three days preparing with counsel.
3   And prior to that spent dozens of hours in preparing
4   the responses to interrogatory No. 16 and
5   interrogatory No. 19 with the team of very senior
6   engineers.
7   Q. What documents did you review in
8   preparation to serve as a corporate representative
9   witness today, to talk about the historical
10 origination of Cisco command line expressions?
11   A. I reviewed Exhibits 431, 432, 433, 434 and
12 435. I reviewed --
13   Q. Let me interrupt you right there because
14 you just listed off a number of exhibits. I take it
15 those exhibits that you just referred to, each of
16 them is a binder?
17   A. Exhibit 431 is an index to the four
18 binders that are Exhibits 432 through 435.
19   Q. Okay. Given that when I asked you what
20 documents you looked at to prepare to testify today,
21 you identified exhibit numbers, I just want to make
22 sure the record is clear, because some of those
23 exhibits are compilations of numerous individual
24 documents.
25   Can you, to the best of your ability,

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54 (Pages 210 - 213)

1 estimate for us the number of documents -- the
2 number of historical Cisco documents you reviewed to
3 prepare yourself to testify today as a corporate
4 representative?
5   A.   Easily 60 to 100 documents.
6   Q.   And can you describe by category what
7 sorts of documents you reviewed to prepare yourself
8 to come testify today about the historical
9 origination of Cisco command line expressions?
10   A.   Individual command specifications written
11 by engineers, source code, some e-mails, some
12 internal web pages, and the deposition of Kirk
13 Lougheed.
14   Q.   Do you believe there is anybody within
15 Cisco who knows more about the historical creation
16 of the 500-plus command line expressions identified
17 in Exhibit 431, other than you?
18   A.   No.
19   MR. NEUKOM: Thanks very much.
20   MR. WONG: Thank you.
21   THE VIDEOGRAPHER: This concludes today's
22 videotaped deposition of Cisco Systems, Inc.
23 pursuant to Rule 30(b)(6).
24   We're off the record at 4:14 p m.
25   (TIME NOTED: 4:14 p m.)

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1   REPORTER'S CERTIFICATION
2
3   I, Leslie Johnson, a Certified Shorthand
4 Reporter of the State of California, do hereby certify:
5   That the foregoing proceedings were taken
6 before me at the time and place herein set forth; that
7 any witnesses in the foregoing proceedings, prior to
8 testifying, were administered an oath; that a record of
9 the proceedings was made by me using machine shorthand
10 which was thereafter transcribed under my direction;
11 that the foregoing transcript is a true record of the
12 testimony given.
          Further, that if the foregoing pertains to
13 the original transcript of a deposition in a Federal
14 Case, before completion of the proceedings, review
15 of the transcript [ ] was [ ] was not requested.
16 I further certify I am neither financially interested in
17 the action nor a relative or employee of any attorney or
18 any party to this action.
19   IN WITNESS WHEREOF, I have this date
   subscribed my name.
20 Dated: April 15, 2016
21
22
23   _Leslie Johnson_
24   LESLIE JOHNSON
25   CSR No. 11451, RPR, CCRR

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